

165.83: Conditional Uses

1. **Purpose:** Conditional uses are those uses having some special impact or unique characteristic which requires a careful review of their location, design, configuration, and special impact to determine the desirability of permitting their establishment on any given site. They are uses which may or may not be appropriate in a particular location depending upon consideration in each case of the public need and benefit and the local impact, and shall be considered within the context of the intent and purpose of this Code.
2. **Conditional uses permitted - limitation:** Each schedule of district regulations, as contained within Sections 165.15 and 165.16 of this Code, identifies those uses which may be permitted as conditional uses in each specific district. No conditional uses except those listed may be permitted in the district.
3. **Eligible applicant:** A property owner may file an application to use property for one or more of the conditional uses provided for in this Code in the zoning district within which the property is located.
4. **Application:** An application for a conditional use shall be filed with the Zoning Administrator and be in the number of copies, and shall contain such information and documentation as the Board may by resolution adopt, but shall in all instances contain at least the following documents and information:
 - A. **Petition:** A written petition containing the following information:
 - (1) Applicant's name and address and his legal interest in the subject property.
 - (2) The title holder's name and address, if different than the applicant and evidence of title holder's consent to the filing of the application.
 - (3) Street address or common description and the complete legal description of the property.
 - (4) The zoning district classification and present use of the property.
 - (5) A general description of the proposed conditional use.
 - (6) Statements addressing each one of the standards set forth in Section 165.83:7 below, and stating how the proposed conditional use relates to and meets each such standard.
 - B. **Location map:** A clear and legible map, drawn to a scale of one inch equals 300 feet or larger, containing the following:
 - (1) Existing lot lines and streets within 600 feet of the subject property.
 - (2) Existing zoning districts within 600 feet of the subject property.
 - (3) Identification of the subject property and its dimensions.

- (4) A north arrow.
 - (5) A legend box which shall include the applicant's name and phone number, date prepared, conditional use requested, address, and legal description of the subject property and map scale.
- C. **Site Development Plan:** The site development plan shall be prepared by an engineer, architect, landscape architect, or similar professional, and shall be at a scale of one inch equals 20 feet or larger, and shall contain the following:
- (1) Existing physical site conditions including contours at intervals of five feet or less, water courses, floodplains, unique natural features, and location of all trees five inches or more in diameter at a height of four feet above the ground line or general wooded areas; and proposed finished topographic contours.
 - (2) Existing and proposed lot lines and property dimensions.
 - (3) The location and dimensions of all existing and proposed principal and accessory buildings and any other significant structures on the subject property also showing separation between buildings and location and dimensions of yards.
 - (4) Identify building types by usage of floor area and number of units, offices, or the like.
 - (5) Location and dimensions of vehicular and pedestrian circulation elements including streets; driveways and entrances and exits thereto; off-street parking spaces, loading spaces and access aisles; and sidewalks, walkways and pathways.
 - (6) Existing and proposed utility systems including sanitary and storm sewers and water, electric, gas and telephone lines; surface drainage and any impoundment areas.
 - (7) General location and height of proposed fence and planting and the type of materials to be used.
 - (8) Elevation and renderings: Elevations and architectural renderings of structures and improvements sufficient to relay the basic architectural intent of the proposed improvements.
5. **Notification signs:** The Zoning Administrator shall provide each applicant for a conditional use with at least two notification signs which shall be clearly posted by the applicant on the subject property. On a larger property additional such signs may be required. At least one sign shall be placed so that it is clearly visible from an abutting street and if the subject property has frontage on more than one street a sign shall be posted on each such frontage. When a property has little or no direct street frontage, additional signs may be required to be posted adjacent to and facing the surrounding properties. For each sign provided, the applicant shall pay a fee in an amount established from time to time by the City Council by resolution.

- A. **Sign content:** The notification signs shall indicate the zoning district classification, the proposed conditional use, and the date, time and place of the following meetings at which the conditional use will be reviewed.
 - (1) Planning and Zoning Commission.
 - (2) Board of Adjustment Public Hearing. The sign shall also contain any additional information as the Board shall, by rule, require.
 - B. **Time of sign posting:** The notification signs shall be posted at least seven days prior to the meeting of the Planning and Zoning Commission and shall be maintained continuously on the property until after the public hearings of the Board.
 - C. **Failure to post signs:** Failure to post signs and maintain such notices as prescribed above may be considered by the Board as sufficient cause to defer the hearing on the application.
 - D. **Sign removal:** Such signs shall be removed by the applicant within five days after the public hearing. No person other than the applicant or his agent shall erect, remove or alter such signs. No one shall deface nor in any way affect the visibility or interfere with such signs.
6. **Conditional use application review procedure:** The Zoning Administrator shall forward copies of the conditional use application to the Board and to the Planning and Zoning Commission in the number of copies they shall each require.
- A. **Planning and Zoning Commission:** The Planning and Zoning Commission shall review such application and return a written report of their findings and recommendations to the Board prior to the Board's scheduled public hearing on the application. In their review said Commission shall consider each of the standards established in Section 165.83:7 below. In a separate paragraph in such report said Commission shall list any recommended conditions and/or restriction to be attached to an approval of the subject application.
 - B. **Board of Adjustment**
 - (1) **Public hearing notice:** The Board shall set a public hearing for the application and shall publish notice of time and place of the hearing, in a publication of general circulation within the City of Hiawatha, not less than four (4) days nor more than 20 days before the date of such hearing. In setting the public hearing, the Board shall allow time required by the Planning and Zoning Commission to review the application and return its report to the Board.
 - (2) **Action by the Board:** The Board shall after receiving the report from the Planning and Zoning Commission and conducting the public hearing on the application, reach its decision within forty-five days of the date of the public hearing, unless such time is extended by mutual consent of the applicant and the Board. In their review, the Board shall consider each of the standards established in Section 165.83:7 below. The Board shall either grant the application for conditional use, grant it subject to conditions, or deny the application.

- (3) Conditions: The Board may impose such conditions, including restrictions and safeguards, upon the property benefited by the conditional use as considered necessary to prevent or minimize adverse effects upon other property in the vicinity or upon public facilities and services. Such conditions shall include a requirement that development be in accord with a site development plan approved by the Board. Such conditions shall be expressly set forth in the approval of the conditional use. Violations of such conditions shall be a violation of this Code.
7. **Standards for Conditional Uses:** Approval for any conditional use shall be granted only if evidence is presented which establishes:
- A. That the conditional use applied for is permitted in the district within which the property is located.
 - B. That the proposed use and development will be in accord with the intent and purpose of this Code and with the goals and objectives of the Land Use portion of the Comprehensive Site Plan.
 - C. That the proposed use and development will not have a substantial adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility and service facilities, and other factors affecting the public health, safety, and welfare.
 - D. That the proposed development or use will be located, designed, constructed and operated in such a manner that it will be compatible with the immediate neighborhood and will not interfere with the orderly use, development and improvement of surrounding property.
 - E. That adequate measures have been or will be taken to assure adequate access designed to minimize traffic congestion and to assure adequate service by essential public services and facilities including utilities, storm water drainage, and similar facilities.
 - F. That the proposed building, development, or use will comply with any additional standards imposed on it by provisions of this Code for the district in which the property is located.
 - G. Whether, and to what extent, all reasonable steps possible have been, or will be taken, to minimize any potential adverse effects on the surrounding property through building design, site design, landscaping, and screening.
8. **Permits and Approvals Still Necessary:** As appropriate and as required by the codes and ordinances of the City, other permits and approvals shall be obtained. These may include building permits, certificates of occupancy, subdivision approval, and any similar permits or approvals. The approval of a conditional use and any conditions imposed thereon, including the approved site development plan, shall be taken into appropriate account in issuance of any said subsequent permits and approvals.

9. **Amendments to an Approved Conditional Use:** Following completion of the development, or establishment of the use authorized by an approval for a conditional use, such use may be amended, varied, or altered in the same manner and subject to the same limitations as any other regulation established by this Ordinance.

10. **Revisions to an Approved Site Development Plan for a Conditional Use:** If, at any time, the owner of land included in an approved site development plan for a conditional use desires to revise said approved plan, he shall submit a written petition requesting such revision. A revised site development plan shall accompany the petition, and said plan shall show the proposed revisions to the approved site development plan. The petition and revised plan shall be submitted to the Zoning Administrator who shall forward a copy thereof to the Planning and Zoning Commission for review and report. After review of said report, a determination shall be made by the Zoning Administrator as to whether the proposed revisions constitute a major or minor plan revision to the approved plan. If an issue arises concerning whether a proposed revision constitutes a major or minor plan revision, the Board and the Planning Commission shall be so informed. The Planning and Zoning Commission shall recommend whether it be considered a minor or major revision to the Board and then the Board shall make the final determination without the necessity of a public hearing thereon.
 - A. **Minor revisions:** Minor revisions shall be those that do not increase the size of any building or structure by more than 10 feet in any direction. Revised site development plans containing only minor revisions may be approved or denied by the Board without the necessity of holding a public hearing thereon after report by the Zoning Administrator and the Planning and Zoning Commission. If approved, the revised site development plan shall then supersede the previously approved plan and subsequent development on the property shall be in accord with such approved revised plan.
 - (1) Changes adjacent to the transitional zone, which is defined as "that area between a site improvement, such as structures, parking areas and driveways, and an adjacent property in an A, R-1, R-3 or R-5 district," shall be limited to the following:
 - a. Reduction in length of parking areas, drives, or other similar facilities;
 - b. An increase in setbacks of site improvements such as structures, parking areas and driveways;
 - c. A decrease in the height, length, or width of structures;
 - d. An increase in the height, length, or width of structures, parking areas, or other facilities generally to no more than twenty percent of that portion facing the adjacent property;
 - e. A decrease in setbacks of structures, parking, or other facilities generally to no more than twenty percent of the approved setbacks;
 - f. A shift parallel to the transitional zone in the location of a structure, parking area, or similar facility generally to no more than twenty percent of the length or width of the structure, parking area, or other facility;

